

House File 268 - Introduced

HOUSE FILE _____
BY PAULSEN

Passed House, Date _____ Passed Senate, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to floodplain mapping for the state and providing
2 coordinating amendments.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
4 TLSB 1060YH 83
5 av/nh/8

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1 1 DIVISION I
1 2 FLOODPLAIN MAPPING
1 3 Section 1. NEW SECTION. 455B.262A FLOODPLAIN MAPPING ==
1 4 PLAN AND IMPLEMENTATION.
1 5 1. The department shall devise and deliver to the general
1 6 assembly by December 15, 2009, a plan to develop quality
1 7 floodplain maps for the entire state which are acceptable as
1 8 official national flood insurance program maps.
1 9 2. The plan shall include but is not limited to
1 10 achievement of all of the following objectives:
1 11 a. Obtaining light detection and ranging (LIDAR)
1 12 topographic data for the entire state.
1 13 b. Selecting stream reaches and assigning priorities for
1 14 obtaining LIDAR data and developing floodplain mapping of the
1 15 selected reaches based on consideration of flooding
1 16 characteristics, the type and extent of existing and
1 17 anticipated floodplain development in particular stream
1 18 reaches, the quality of any existing maps of the area, and the
1 19 needs of local governmental bodies for assistance in
1 20 delineating floodplain and floodway boundaries.
1 21 c. Choosing a hydraulic model for use in developing the
1 22 floodplain maps, including consideration of acquiring and
1 23 using a simplified hydraulic model used by the United States
1 24 army corps of engineers, that significantly reduces the need
1 25 for additional survey data and the amount of input data needed
1 26 to run the model in order to create quality floodplain maps
1 27 that meet the requirements for national flood insurance
1 28 program maps.
1 29 d. Obtaining funding and technical assistance involving
1 30 federal, state, and local resources.
1 31 e. Determining staffing requirements to implement the
1 32 plan.
1 33 f. Developing and updating floodplain maps for areas in
1 34 which LIDAR data is already available while resolving any
1 35 technical issues involved with the modification and use of the
2 1 hydraulic model chosen.
2 2 g. Creating a detailed project plan for completion of
2 3 floodplain mapping for the remainder of the state, based upon
2 4 the initial experience in using the hydraulic model chosen,
2 5 that describes specific work products, priorities, and
2 6 schedules for implementation and completion of the plan.
2 7 h. Developing methods and protocols for preparing
2 8 floodplain maps in special situations that require
2 9 alternative, nonstandard approaches.
2 10 i. Field-testing the plan no later than December 31, 2010.
2 11 3. The plan shall also include a schedule for implementing
2 12 each of the objectives contained in the plan, contingent upon
2 13 funding.
2 14 DIVISION II
2 15 COORDINATING AMENDMENTS
2 16 Sec. 2. Section 455B.261, subsections 8, 9, 12, and 13,
2 17 Code 2009, are amended to read as follows:
2 18 8. "~~Flood plains~~ Floodplain" means the area adjoining a
2 19 river or stream which has been or may be covered by flood
2 20 water.

2 21 9. "Floodway" means the channel of a river or stream and
2 22 those portions of the ~~flood plains~~ floodplains adjoining the
2 23 channel which are reasonably required to carry and discharge
2 24 the flood water or flood flow of any river or stream.

2 25 12. "Permit" means a written authorization issued by the
2 26 department to a permittee which authorizes diversion, storage,
2 27 including storage of treated water in an aquifer, or
2 28 withdrawal of water limited as to quantity, time, place, and
2 29 rate in accordance with this part or authorizes construction,
2 30 use, or maintenance of a structure, dam, obstruction, deposit,
2 31 or excavation in a floodway or ~~flood plain~~ floodplain in
2 32 accordance with the principles and policies of protecting life
2 33 and property from floods as specified in this part.

2 34 13. "Permittee" means a person who obtains a permit from
2 35 the department authorizing the person to take possession by
3 1 diversion, storage in an aquifer, or otherwise and to use and
3 2 apply an allotted quantity of water for a designated
3 3 beneficial use, and who makes actual use of the water for that
3 4 purpose or a person who obtains a permit from the department
3 5 authorizing construction, use, or maintenance of a structure,
3 6 dam, obstruction, deposit, or excavation in a floodway or
3 7 ~~flood plain~~ floodplain for a designated purpose.

3 8 Sec. 3. Section 455B.262, subsection 1, Code 2009, is
3 9 amended to read as follows:

3 10 1. It is recognized that the protection of life and
3 11 property from floods, the prevention of damage to lands from
3 12 floods, and the orderly development, wise use, protection, and
3 13 conservation of the water resources of the state by their
3 14 considered and proper use is of paramount importance to the
3 15 welfare and prosperity of the people of the state; and, to
3 16 realize these objectives, it is the policy of the state to
3 17 correlate and vest the powers of the state in a single agency,
3 18 the department, with the duty and authority to assess the
3 19 water needs of all water users ~~at five-year intervals for the~~
~~3 20 twenty years beginning January 1, 1985, and ending December~~
~~3 21 31, 2004,~~ utilizing a database developed and managed by the
3 22 Iowa geological survey, and to prepare a general plan of water
3 23 allocation in this state considering the quantity and quality
3 24 of water resources available in this state designed to meet
3 25 the specific needs of the water users. ~~The department shall~~
~~3 26 also develop and the department shall adopt no later than June~~
~~3 27 30, 1986, a plan for delineation of flood plain and floodway~~
~~3 28 boundaries for selected stream reaches in the various river~~
~~3 29 basins of the state. Selection of the stream reaches and~~
~~3 30 assignment of priorities for mapping of the selected reaches~~
~~3 31 shall be based on consideration of flooding characteristics,~~
~~3 32 the type and extent of existing and anticipated flood plain~~
~~3 33 development in particular stream reaches, and the needs of~~
~~3 34 local governmental bodies for assistance in delineating flood~~
~~3 35 plain and floodway boundaries. The plan of flood plain~~
~~4 1 mapping shall be for the period from June 30, 1986, to~~
~~4 2 December 31, 2004. After the department adopts a plan of~~
~~4 3 flood plain mapping, the department shall submit a progress~~
~~4 4 report and proposed implementation schedule to the general~~
~~4 5 assembly biennially. The department may modify the flood~~
~~4 6 plain mapping plan as needed in response to changing~~
~~4 7 circumstances.~~

4 8 Sec. 4. Section 455B.264, subsection 3, Code 2009, is
4 9 amended to read as follows:

4 10 3. Upon application by any person for approval of the
4 11 construction or maintenance of any structure, dam,
4 12 obstruction, deposit, or excavation to be erected, used, or
4 13 maintained in or on the ~~flood plains~~ floodplains of any river
4 14 or stream, the department shall investigate the effect of the
4 15 construction or maintenance project on the efficiency and
4 16 capacity of the floodway. In determining the effect of the
4 17 proposal the department shall consider fully its effect on
4 18 flooding of or flood control for any proposed works and
4 19 adjacent lands and property, on the wise use and protection of
4 20 water resources, on the quality of water, on fish, wildlife,
4 21 and recreational facilities or uses, and on all other public
4 22 rights and requirements.

4 23 Sec. 5. Section 455B.275, subsections 1, 3, and 4, Code
4 24 2009, are amended to read as follows:

4 25 1. A person shall not permit, erect, use, or maintain a
4 26 structure, dam, obstruction, deposit, or excavation in or on a
4 27 floodway or ~~flood plains~~ floodplain, which will adversely
4 28 affect the efficiency of or unduly restrict the capacity of
4 29 the floodway, or adversely affect the control, development,
4 30 protection, allocation, or utilization of the water resources
4 31 of the state, and the same are declared to be public

4 32 nuisances.

4 33 3. A person shall file a written application with the
4 34 department if the person desires to do any of the following:

4 35 a. Erect, construct, use, or maintain a structure, dam,
5 1 obstruction, deposit, or excavation in or on any floodway or
5 2 ~~flood plains floodplain~~.

5 3 b. Erect, construct, maintain, or operate a dam on a
5 4 navigable or meandered stream.

5 5 c. Erect, construct, maintain, or operate a dam on a
5 6 stream for manufacturing or industrial purposes.

5 7 The application shall set forth information as required by
5 8 rule of the commission. The department, after an
5 9 investigation, shall approve or deny the application imposing
5 10 conditions and terms as prescribed by the department.

5 11 4. The department may maintain an action in equity to
5 12 enjoin a person from erecting or making or permitting to be
5 13 made a structure, dam, obstruction, deposit, or excavation for
5 14 which a permit has not been granted. The department may also
5 15 seek judicial abatement of any structure, dam, obstruction,
5 16 deposit, or excavation erected or made without a permit
5 17 required under this part. The abatement proceeding may be
5 18 commenced to enforce an administrative determination of the
5 19 department in a contested case proceeding that a public
5 20 nuisance exists and should be abated. The costs of abatement
5 21 shall be borne by the violator. Notwithstanding section
5 22 352.11, a structure, dam, obstruction, deposit, or excavation
5 23 on a floodway or ~~flood plain floodplain~~ in an agricultural
5 24 area established under chapter 352 is not exempt from the
5 25 sections of this part which relate to regulation of ~~flood~~
5 26 ~~plains floodplains~~ and floodways. As used in this subsection,
5 27 "violator" includes a person contracted to erect or make a
5 28 structure, dam, obstruction, deposit, or excavation in a
5 29 floodway including stream straightening unless the project is
5 30 authorized by a permit required under this part.

5 31 Sec. 6. Section 455B.276, Code 2009, is amended to read as
5 32 follows:

5 33 455B.276 ~~FLOOD PLAINS FLOODPLAINS~~ == ENCROACHMENT LIMITS.

5 34 1. The commission may establish and enforce rules for the
5 35 orderly development and wise use of the ~~flood plains~~
6 1 ~~floodplains~~ of any river or stream within the state and alter,
6 2 change, or revoke the rules. The commission shall determine
6 3 the characteristics of floods which reasonably may be expected
6 4 to occur and may establish by order encroachment limits,
6 5 protection methods, and minimum protection levels appropriate
6 6 to the flooding characteristics of the stream and to
6 7 reasonable use of the ~~flood plains floodplains~~. The order
6 8 shall fix the length of ~~flood plains floodplains~~ to be
6 9 regulated at any practical distance, the width of the zone
6 10 between the encroachment limits so as to include portions of
6 11 the ~~flood plains floodplains~~ adjoining the channel, which with
6 12 the channel, are required to carry and discharge the flood
6 13 waters or flood flow of the river or stream, and the design
6 14 discharge and water surface elevations for which protection
6 15 shall be provided for projects outside the encroachment limits
6 16 but within the limits of inundation. Plans for the protection
6 17 of projects proposed for areas subject to inundation shall be
6 18 reviewed as plans for flood control works within the purview
6 19 of section 455B.277. An order establishing encroachment
6 20 limits shall not be issued until notice of the proposed order
6 21 is given and opportunity for public hearing given for the
6 22 presentation of protests against the order. In establishing
6 23 the limits, the commission shall avoid to the greatest
6 24 possible degree the evacuation of persons residing in the area
6 25 of a floodway, the removal of residential structures occupied
6 26 by the persons in the area of a floodway, and the removal of
6 27 structures erected or made prior to July 4, 1965, which are
6 28 located on the ~~flood plains floodplains~~ of a river or stream
6 29 but not within the area of a floodway.

6 30 2. The commission shall cooperate with and assist local
6 31 units of government in the establishment of encroachment
6 32 limits, ~~flood plain floodplain~~ regulations, and zoning
6 33 ordinances relating to ~~flood plain floodplain~~ areas within
6 34 their jurisdiction. Encroachment limits, ~~flood plain~~
6 35 ~~floodplain~~ regulations, or ~~flood plain floodplain~~ zoning
7 1 ordinances proposed by local units of government shall be
7 2 submitted to the department for review and approval prior to
7 3 adoption by the local units of government. Changes or
7 4 variations from an approved regulation or ordinance as it
7 5 relates to ~~flood plain floodplain~~ use are subject to approval
7 6 by the commission prior to adoption. Individual applications,
7 7 plans, and specifications and individual approval orders shall

7 8 not be required for works on the ~~flood plains~~ floodplains
7 9 constructed in conformity with encroachment limits, ~~flood~~
7 10 ~~plain floodplain~~ regulations, or zoning ordinances adopted by
7 11 the local units of government and approved by the commission.
7 12 Sec. 7. Section 455B.304, subsection 16, Code 2009, is
7 13 amended to read as follows:
7 14 16. The commission shall adopt rules which prohibit the
7 15 land application of petroleum contaminated soils on ~~flood~~
7 16 ~~plains floodplains~~.

7 17 Sec. 8. CODE EDITOR DIRECTIVE. The Code editor is
7 18 directed to change the term "flood plain" or "flood plains" to
7 19 "floodplain" or "floodplains" wherever the term appears in the
7 20 Code or in the Acts pending codification.

7 21 EXPLANATION

7 22 Division I of this bill creates new Code section 455B.262A,
7 23 which requires the department of natural resources to devise a
7 24 plan to develop quality floodplain maps for the entire state
7 25 which are acceptable as official national flood insurance
7 26 program maps and to deliver that plan to the general assembly
7 27 by December 15, 2009. The bill specifies the objectives that
7 28 should be included in the plan and requires that the plan
7 29 include a schedule for implementing each of those objectives,
7 30 contingent upon funding. The bill requires field testing of
7 31 the plan no later than December 31, 2010.

7 32 Division II of the bill corrects the spelling of the word
7 33 "floodplain" or "floodplains" in Code chapter 455B.

7 34 Division II of the bill also amends Code section
7 35 455B.262(1) to remove outdated references to duties of the
8 1 department of natural resources regarding preparation of a
8 2 general plan of water allocation in this state and to a plan
8 3 of floodplain mapping.

8 4 LSB 1060YH 83

8 5 av/nh/8.1